

REMARKS

I. Summary of the Office Action

The Office Action mailed April 23, 2008 (“the Office Action”) made the following objections and/or rejections, each of which is addressed in more detail below:

Claims 1 and 26 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite.

Claims 1 and 26 were rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps.

Claims 1-31 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 7,177,833 (“Marynowski”) in view of U.S. Patent No. 7,110,974 (“Rust”).

II. Related Applications

The Applicant reminds the Office that the present application is a continuation-in-part of commonly assigned U.S. Patent Application Serial No. 10/137,979 which was allowed on May 13, 2008 and is related to U.S. Patent Application Serial Nos. 11/417,915, 11/417,533, and 12/164,859. In addition, the present application is related to pending U.S. Patent Application Serial No. 11/417,870 which is pending and is a continuation of the present application. The Applicant respectfully requests the Examiner to review the claims and the prosecution history of the related application as they contain common subject matter.

In addition, for the purposes of the present application, the Applicant hereby rescinds any disclaimer of claim scope that may have been (or may be) made during the prosecution of any related application. The Applicant respectfully requests that each claim in the present application be examined according to the language of the claim and the prior art as set forth in the MPEP and not importing statements made by the Applicant in the prosecution of any related application.

III. Status of the Claims

The present application includes claims 17-25 and 32. By this Response, claims 1-16 and 26-31 have been cancelled, new claim 32 has been added, and claim 17 has been amended. Claims 1-16 and 26-31 were cancelled without prejudice and disclaimer in order to expedite

prosecution and the Applicant expressly reserves the right to pursue the subject matter of the cancelled claims in a continuing application. Support for these amendments can be found throughout the application, and therefore no new matter is added in this response.

IV. Claim Rejections – 35 U.S.C. 112

The Applicant first turns to the rejection of claims 1 and 26 under 35 U.S.C. 112, second paragraph, as being indefinite. As noted above, claims 1 and 26 have been cancelled. Therefore, the Applicant respectfully submits that this rejection is now moot and should be withdrawn.

The Applicant next turns to the rejection of claims 1 and 26 under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps. As noted above, claims 1 and 26 have been cancelled. Therefore, the Applicant respectfully submits that this rejection is now moot and should be withdrawn.

V. Claim Rejections – 35 U.S.C. 103

The Applicant now turns to the rejection of claims 1-31 under 35 U.S.C. 103(a) as being unpatentable over Marynowski in view of Rust. The Applicant respectfully submits that neither Marynowski nor Rust, alone or in combination, teaches or suggests the entirety of the limitations recited in the pending claims for at least the reasons discussed below.

The Office Action states at page 7 that “Marynowski does not specifically teach estimating the spread value based on a first value associated with the event in the first tradeable object and based on a second value associated with the selected buy side or sell side of the second tradeable object.” The Applicant agrees and will focus below on this feature stated to be missing from Marynowski. The Applicant will not address at this time the contended teachings of Marynowski made in the Office Action with respect to other features of the pending claims.

Rust generally relates estimating the cost of trading to make better informed decisions regarding whether and what to trade, as noted at col. 1, lines 7-14. As explained beginning at col. 1, line 31, one of the costs associated with trading includes execution costs. Execution costs can be understood as a combination of spread cost and size impact costs, both of which must be evaluated to estimate execution costs.

Rust provides more detail of spread costs beginning at col. 1, line 41, which states that spread costs reflect the cost per share of executing a small order. If one always bought on the offer and sold on the bid, the spread cost would be half the bid-ask spread. A detailed explanation of the average bid-ask spread is provided beginning at col. 5, line 43 which provides an equation (Equation 2) for computing the average bid-ask spread. As is made clear in the discussion of Equation 1 (which begins at col. 4, line 59), the average bid-ask spread (variable “e” in Equation 1) is for a single stock.

Thus, the Applicant respectfully submits that the term “spread,” as used in Rust, is a completely different concept than the spread referred to in the pending claims. As discussed above, the spread of Rust is a “bid-ask spread” for **a single stock** and represents the difference between the lowest ask price and the highest bid price of that single stock. This value **can be directly computed** (and is, in Rust) because the lowest ask and the highest bid prices are known.

In contrast, the pending claims refer to a spread used in spread trading which includes **at least two** tradeable objects. Further, the present claims are directed towards **estimating** a spread value between the two or more tradeable objects, which would be wholly unnecessary in the spread of Rust, which can be directly computed.

The Applicant respectfully requests that the Examiner contact the Applicant’s representative if further explanation of the difference between the unfortunately confusing, but unrelated, usage of the term “spread” in Rust and the present application would be helpful in furthering prosecution.

Accordingly, without conceding the propriety of the asserted combination, the Applicant respectfully submits that, even in view of the knowledge of one of ordinary skill in the art, Rust cannot and does not cure the deficiencies of Marynowski discussed above.

Independent claim 17 has been amended to clarify that the referred-to spread is for spread trading and now recites “the first tradeable object and a second tradeable object are part of a spread for spread trading.” In addition, amended independent claim 17 also recites “estimating a spread value for the spread based on a first value associated with the event in the first tradeable object and based on a second value associated with the selected buy side or sell side of the second tradeable object.” New independent claim 32 recites similar limitations. For at least the reasons discussed above, neither Marynowski nor Rust, alone or in combination, teaches or suggests the entirety of the limitations recited in the pending claims. Therefore, the Applicant

respectfully submits that independent claims 17 and 32 should be allowable over the cited art of record for at least the reasons discussed above.

With respect to claims 18-25, these claims depend from independent claim 17. The Applicant respectfully submits that at least because claim 17 should be allowed for the reasons discussed above, claims 17-25 should also be allowed.

With respect to claims 1-16 and 26-31, as discussed above, these claims have been cancelled. Consequently, the Applicant respectfully submits this rejection is now moot and should be withdrawn.

VI. Conclusion

In general, the Office Action makes various statements regarding the pending claims and the cited references that are now moot in light of the above. Thus, the Applicant will not address such statements at the present time. However, the Applicant expressly reserves the right to challenge such statements in the future should the need arise (for example, if such statements should become relevant by appearing in a rejection of any current or future claim).

All the stated grounds of objection and rejection have been respectfully traversed, accommodated, or rendered moot. The Applicant therefore submits that the present application is in condition for allowance. If the Examiner believes that further dialog would expedite consideration of the application, the Examiner is invited to contact Trading Technologies in-house Patent Counsel Adam Faier at 312-698-6003, or the undersigned attorney or agent.

Respectfully submitted,

McDonnell Boehnen Hulbert & Berghoff LLP

Dated: July 22, 2008

By: /Jori R. Fuller/
Jori R. Fuller
Reg. No. 57,628

McDonnell Boehnen
Hulbert & Berghoff LLP
300 South Wacker Drive
Chicago, IL 60606
Tel: 312-913-0001
Fax: 312-913-0002